

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): David J. Broyles, et al.

Serial No.: 09/965,276

Group Art Unit:

Filed: September 27, 2001

Examiner:

For: Pecan Processing Method
And System

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09-19-02
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DECLARATION OF MICHAEL BROYLES

Assistant Commissioner for Patents
Washington, D.C. 20231

Att'y Docket No. 2978-00100
Date: 7-21-02

1. My name is Michael Broyles; I am over 18 years of age and have never been convicted of a felony. I have a personal knowledge of the facts and statements made below.
2. My family owns a pecan processing facility near Lamesa, Texas where we have a machine utilizing the technology described in U.S. Patent Nos. 5,879,734 and 6,135,020. The Lamesa, Texas facility has only two cracker units capable of providing, at a maximum, 800 cracks per minute per cracker or 1600 cracks per minute overall.
3. Simply doubling the size of the machine in the Lamesa facility was not the correct or the most economical approach to designing a pecan processing machine using the technology from U.S. Patent Nos. 5,879,734 and 6,135,020 to handle 3200 cracks per minute. Also the Morven Partners, Ltd. San Saba plant, because of space restrictions, required a multi-level or stacked design.
4. Because we had not developed a machine capable of handling 3200 cracks per minute, could not financially afford to do the additional design work, and did not have a place to test such a large machine, Morven Partners, Ltd's request for a machine

was turned down.

5. Within the Broyles family, we had conceived of the idea of catching and conveying the secondary cracker product onto the width separation screen assembly, but because the idea had not been tested, we were not sure if it would work.

6. Within the Broyles family, we had conceived of the idea of performing a thickness separation of the largest category of nut parts from the width screening mechanism, and then sorting only nuts and nut parts having the greatest thickness in a pin sorter to separate the cracked and uncracked nuts, sending substantially only the uncracked nuts back to the cracker. Because the idea had not been tested, we were not sure if it would work.

7. The quotation letter dated October 11, 2000 titled "Quotation No. 1025" was for a pecan processing machine now in operation in Morven Partners, Ltd's El Paso pecan processing plant.

8. The development of the technology of U.S. Patent Nos. 5,879,734 and 6,135,020 and the improvements were done under a non-disclosure agreement with Morven Partners, Ltd.

9. We were responsible for performing the experimental testing of the prototype device that was the result of the agreement with Morven Partners, Ltd.

10. Our agreement with Morven Partners, Ltd. to expand the technology of the 5,879,734 and 6,135,020 patents was not for profit.

11. The prototype device that resulted from the expansion effort became operational in October 2000, but was removed after seven months of service and replaced with a permanent machine.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Michael Broyles

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DECLARATION OF SONNY PADDIE

Assistant Commissioner for Patents
Washington, D.C. 20231

Att'y Docket No. 2978-0100

Date: 8-19-02

1. My name is Sonny Paddie; I am over 18 years of age and have never been convicted of a felony. I have a personal knowledge of the facts and statements made below. I am the production manager of Original Nut House San Saba.
2. The San Saba, Texas pecan processing facility owned by Morven Partners, Ltd has 4 product lines. Three of which have 3 crackers per line, and the fourth line having four crackers. The 3 cracker lines crack approximately 2,400 nuts per minute. The 4 cracker line cracks approximately 3,200 nuts per minute.
3. After being informed by David Broyles and Michael Broyles (generally the Broyles family) that they would be unable to supply a machine using the technology from the U.S. Patent Nos. 5,879,734 and 6,135,020, Morven Partners, Ltd. approached the Broyles family about an arrangement where they could build and test a prototype machine for a capacity of approximately 3200 cracks per minute in our San Saba, Texas facility.
4. Morven's San Saba, Texas facility is not open for public inspection or tours.
5. The pecans shelled by the prototype device were sold commercially, but represented only a small percentage of the overall product produced by Morven as a company or even Morven's San Saba facility.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that false statements and the like so made are punishable by fine or imprisonments, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

B.R. (Sonny) Paddie
Sonny Paddie